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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

<p>CLIFF YANG,</p> <p>Plaintiff,</p> <p>V.</p> <p>KEVIN LONG; MILLCREEK COMMERCIAL PROPERTIES, LLC; and COLLIERS INTERNATIONAL AMERICAN DEVELOPMENT PARTNERS,</p> <p>Defendants.</p>	<p>MOTION TO STRIKE PLAINTIFF’S JANUARY 6, 2025 ADDITIONAL OPPOSITION MEMORANDUM TO DEFENDANT COLLIERS’ MOTION TO DISMISS</p> <p>Case No. 2:24-cv-00755</p> <p>Judge Dale A. Kimball Magistrate Judge Dustin B. Pead</p>
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RELIEF SOUGHT AND GROUNDS FOR THE RELIEF

Pursuant to Rule 7(b) of the Federal Rules of Civil Procedure and DUCivR 7-1(b)(1)(B), Defendant Colliers International (“Colliers”) hereby moves to strike “Plaintiff’s Opposition to Defendant’s Reply in Support of Colliers International’s Motion to Dismiss Plaintiff’s Amended

Complaint (Second).” Plaintiff’s filing is not permitted by the Federal or Local Rules of Civil Procedure, and it should be stricken.

FACTS AND ARGUMENT

On November 3, 2024, Plaintiff filed an Amended Complaint against Defendants. On December 2, 2024, Colliers filed a Motion to Dismiss the Amended Complaint. On December 13, 2024, Plaintiff filed his Opposition to Colliers’ Motion, and on December 27 Colliers filed its Reply Memorandum in Support of its Motion to Dismiss. Pursuant to DUCivR 7-1(b)(1)(B), the non-moving party is not allowed to file any response or evidentiary objection after the reply memorandum unless “new evidence is proffered in support of a reply memorandum.” Even though Colliers did not include any new evidence in its reply memorandum, on January 6, 2025, Plaintiff filed what he titled “Plaintiff’s Opposition to Defendant’s Reply in Support of Colliers International’s Motion to Dismiss Plaintiff’s Amended Complaint (Second).” This sur-reply filing presented new factual and legal arguments in support of Plaintiff’s Opposition to the Motion. Plaintiff’s sur-reply is forbidden by DUCivR 7-1(b)(1)(B) and it should be stricken and the Court should disregard all arguments therein.¹

CONCLUSION

Based on the foregoing, Plaintiff’s improper January 6, 2025 sur-reply memorandum styled as an “Opposition to Defendant’s Reply” should be stricken.

¹ Even if Colliers had included additional evidence in its reply memorandum, which it did not, and Plaintiff were allowed to file an objection to that evidence, pursuant to DUCivR 7-1(b)(1)(B), it “must be filed within seven (7) days after service of the reply.” Colliers served its reply on December 27, 2024. Plaintiff did not file his sur-reply until January 6, 2025, ten days later. As such, Plaintiff’s filing is not only impermissible, but is also untimely.

DATED: January 11, 2025.

DENTONS DURHAM JONES PINEGAR P.C.

/s/ David B. Nielson

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CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2025, a true and correct copy of the foregoing was served via the Court's ECF Service on the following:

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